

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ZACHARY R. GRAHAM, <i>As a Matter of an</i>)	
<i>Ex Parte Petition for Intervention by</i>)	
)	Civil Action No. 21-549
Plaintiff,)	
)	District Judge Arthur J. Schwab
v.)	Magistrate Judge Maureen P. Kelly
)	
LANAISHA FREELAND)	Re: ECF Nos. 7, 8, and 9
)	
Defendant.)	

MEMORANDUM ORDER

Plaintiff Zachary R. Graham (“Plaintiff”) is a state prisoner currently incarcerated at the State Correctional Institution at Greene (“SCI-Greene”) in Waynesburg, Pennsylvania. Plaintiff initiated this matter by submitting a Motion and Declaration in Support of Motion to Proceed *in Forma Pauperis* (“IFP”) and a Complaint, which were received by this Court on April 26, 2021. [ECF No. 1](#). The motion was granted on April 28, 2021, [ECF No. 4](#), and the Complaint was filed on April 29, 2021, [ECF No. 6](#).

This matter was referred to a United States Magistrate Judge for pretrial proceedings in accordance with the Magistrates Act, [28 U.S.C. § 636\(b\)\(1\)](#), and Rules 72.C and 72.D of the Local Rules for Magistrate Judges. On April 30, 2021, the Magistrate Judge issued a Report and Recommendation in which she recommended dismissal of the Complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief can be granted because this Court lacked subject matter jurisdiction. [ECF No. 9](#). A copy of the Report was mailed to Plaintiff’s address of record. Plaintiff timely responded with Objections to the Report on May 26, 2021. [ECF No. 12](#).

Plaintiff's Objections fall short of demonstrating that this Court has subject matter jurisdiction of the claims raised in the Complaint.

Therefore, after *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, [ECF No. 9](#), and the Objections thereto, [ECF No. 12](#), the following ORDER is entered:

AND NOW, this 23rd day of June, 2021,

IT IS HEREBY ORDERED that the Complaint, [ECF No. 6](#), is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief can be granted, because this Court lacks subject matter jurisdiction. Leave to amend would be futile, and is DENIED. This dismissal is WITHOUT PREJUDICE to Plaintiff raising the same claims in State court, if appropriate.

IT IS FURTHER ORDERED that Plaintiff's Objections, [ECF No. 12](#), are OVERRULED and DISMISSED.

IT IS FURTHER ORDERED that the magistrate judge's Report and Recommendation, [ECF No. 9](#), is adopted as the opinion of this Court.

IT IS FURTHER ORDERED that Plaintiff's Motion for an *Ex Parte* Demand for a Hearing *De Novo*, [ECF No. 7](#), and *Ex Parte* Petition for Intervention, [ECF No. 8](#), are DENIED as MOOT.

s/ Arthur J. Schwab
United States District Judge

cc: Zachary R. Graham
NP-2097
SCI Greene
175 Progress Drive
Waynesburg, PA 15370